

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-343

October 30, 2002

BANGOR HYDRO-ELECTRIC COMPANY  
Request to Construct Transmission Line of  
100 or More Kilovolts Between the Chester  
Substation and the East Millinocket Substation

INTERIM ORDER AND  
ORDER APPROVING  
STIPULATION

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WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

We approve a Stipulation and issue an interim order in this Title 35-A, Section 3132 certificate case and permit Bangor Hydro-Electric Company (BHE) to begin construction of a 115KV transmission line pending a final decision on whether to issue a certificate. The interim order establishes a pre-certificate spending cap of \$4.5 million, and restricts the ability of BHE to recover the costs of the transmission line from ratepayers other than the customer who requested the transmission service from BHE.

**II. BACKGROUND**

On August 1, 2002, BHE requested that the Commission grant a Certificate of Public Convenience and Necessity pursuant to 35-A M.R.S.A § 3132 for BHE to construct a 115 KV transmission line between a new substation in Chester, Maine and a new substation near East Millinocket, Maine.

BHE states that the proposed line is not expected to be classified as a Pool Transmission Facility and is to be constructed in response to a request for service pursuant to its Federal Energy Regulatory Commission (FERC) jurisdictional Open Access Transmission Tariff (OATT). Pursuant to this tariff, BHE is obligated to construct the line to provide the requested service. Pursuant to the BHE OATT, however, the customer making the request is required to bear the incremental cost of constructing the facilities necessary to provide service, including system upgrades needed to integrate the line into BHE's system.

BHE expects to begin construction of the new line in late 2002 and to complete construction before the fall of 2003. Present plans call for H-frame construction. The total length of the line will be 17.5 miles and the line will follow an existing 46 KV line for the majority of the route. BHE states that the new line will be part of a larger project that will include a new substation in East Millinocket that will serve a new, customer-owned 115 KV line from East Millinocket to Millinocket being constructed by Great Northern Energy. BHE estimates the cost of the line it proposes at \$6 million.

BHE states that the new line was requested by Brascan Energy Marketing, Inc. (Brascan) made the request for the new line as agent for GNE and GNP, to provide

greater access to the New England power grid to existing customers, Great Northern Energy (GNE, a generator) and Great Northern Paper (GNP, a generator and electricity consumer). In addition, the line will improve electric service and create opportunities for other customers in the Millinocket area.

Petitions to intervene were granted on behalf of the Office of the Public Advocate (OPA), the Industrial Energy Consumer Group (IECG), Georgia Pacific Corporation (GP), Central Maine Power Company (CMP) and Maine Public Service Company (MPS). Discovery, technical and case conferences took place during September and October.

On October 18, 2002, a Stipulation was filed with the Commission. BHE, OPA, MPS and CMP join the stipulation. The stipulating parties recommend that the Commission issue an interim order that authorizes BHE to commence construction on the proposed line by November pending a final decision in this proceeding. An interim order is necessary, according to the stipulation, because the ISO-NE System Impact Study (SIS) and related NEPOOL Section 18.4 approval process for the proposed line are not yet complete. BHE reports that much progress has been made in the ISO-NE/NEPOOL process, but that process will not be done before the end of the year. A final decision in this certificate case therefore cannot be expected before the end of the first quarter, 2003.

BHE and Brascan want the proposed line to be operational by June 2003.<sup>1</sup> To meet that deadline, BHE states that certain construction activities must occur before the ground freezes this winter and other construction must occur while the ground is frozen this winter.<sup>2</sup> Consequently, BHE sought agreement among the parties that it be permitted to begin construction before the final decision is reached in this proceeding.

By the terms of the Stipulation, the parties agree that BHE may begin construction now, and spend up to \$4.5 million without further authorization from the Commission. However, BHE may not complete construction of the line until a final order is issued in this proceeding. In return, BHE agrees that it will not seek recovery from ratepayers, other than Brascan, for "any direct or indirect costs related to the development or construction of the Proposed Line." In conjunction with the issuance of a final order in this proceeding, the parties agree to address the merits of a provision that allows BHE to recover line-related costs from other ratepayers if (1) BHE does not recover all such costs from Brascan and (2) the proposed transmission line is the most economical means to serve the other ratepayers.

Counsel for IECG and GP filed a letter with the Commission on October 24, 2002. Counsel states that IECG and GP "have agreed to neither sign or oppose the

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<sup>1</sup> BHE expects that the construction contract between it and Brascan will provide a significant monetary bonus for completion of the line by June 2003.

<sup>2</sup> For instance, the DEP conditioned its approval on BHE completing certain activity by February 28, 2003 to avoid interfering with bald eagle nesting habitats.

Stipulation on the condition that neither the specific language of the Stipulation nor any action by the Commission consider or characterize the Stipulation or its approval as the granting of a Certificate of Public Convenience and Necessity.”

Lastly, BHE contacted DEP to inform DEP that an interim order by the PUC allowing BHE to begin construction would not be a final decision in this certificate case so that DEP did not misinterpret the effect of the interim order.<sup>3</sup>

### III. DECISION

As we have now stated on numerous occasions, to approve a stipulation the Commission must find that:

1. the parties joining the Stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. the process that led to the Stipulation was fair to all parties; and
3. the stipulated result is reasonable and not contrary to legislative mandate.

See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996).

We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets all of the above criteria.

In this case, the Stipulation is signed by BHE, CMP, MPS and the OPA. The only other intervenors do not oppose the Stipulation.<sup>4</sup> Therefore, no party desires a further opportunity for hearing or argument before the Commission deliberates the Stipulation. When all parties in a properly-noticed adjudatory proceeding either join or do not oppose a stipulation, we generally find, and in this case we do find, that the stipulating parties represent a sufficiently broad spectrum of interests to ensure that there is no appearance or reality of disenfranchisement.

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<sup>3</sup> BHE states that DEP responded that the issuance or lack of issuance of a certificate by the PUC does not affect DEP's decisions to issue environmental permits.

<sup>4</sup> We believe this interim order satisfies the condition in the letter from counsel for IECG and GP.



## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.